

Mason & Duffy, P.C.

A T T O R N E Y S A T L A W

March 20, 2006

Mr. James T. Simonitsch
Post Office Box 192
Round Pond, ME 04564

RE: OneBeacon America Insurance Company
v. Blue Water Enterprises, Inc.
U. S. District Court C. A. No. 04-11753-JLT

Dear Mr. Simonitsch:

This letter is in response to your fax of March 17, 2006, with regard to the availability of my client to make his vessel available to Kevin McLaughlin of the Fairhaven Shipyard and Marina. Your comments in your correspondence with regard to the owner of the Prim Lady not being available to show the estimator are completely inappropriate. This matter has been pending, as you are well aware, for over a year with my client, the owner of the Prim Lady, being very flexible and very accessible at all previous times to make available the Prim Lady to shipyards that were to provide bids per previous Court Orders. In fact, at all previous times there were one or two days over a course of months that Mr. Galgana would not have been available. Despite Mr. Galgana's availability, not one shipyard ever contacted him to come and view the vessel in the first instance. With regard to the contact by Mr. Kevin McLaughlin of the Fairhaven Shipyard, per our conversation outside the courtroom on March 7, 2006 you indicated to me that you were meeting with Mr. McLaughlin the next day, would provide him with your report and specifications and have Mr. McLaughlin contact me directly to arrange the showing of the vessel by Mr. Galgana. I did not hear from Mr. McLaughlin until Thursday, March 16, 2006. On Thursday March 16, Mr. McLaughlin left me a message indicating he had tried to reach Mr. Galgana directly, and when he did not get him directly he then contacted me. I attempted to reach Mr. Galgana on Thursday, March 16, when I did not hear from him I spoke with a family member who indicated Mr. Galgana was away.

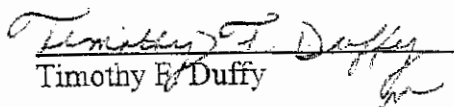
Mr. James T. Simonitsch
March 20, 2006
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You're March 17, 2006 correspondence also indicates that, "No mention was made at the status conference of March 7, 2006 that the owner would not be readily available." I would like to remind you that the last communication this office received from you indicated that the last shipyard the parties agreed would provide bids had bowed out of the process leaving no shipyards currently interested in providing us bids on this project. Your previous correspondence also indicated you had no further suggestions of shipyards we may use to obtain these bids. It was not until the Status Conference of March 7, when you stood up and spoke to the Judge that you indicated to me for the first time that Fairhaven Shipyard would be interested in providing an estimate as opposed to a bid. This fact was clearly relayed to Mr. Chiarello prior to the March 7, 2006 Status Conference, and yet you chose not to have me in the loop or discuss my client's availability about providing such an estimate in viewing the vessel. In addition, the short time frame here for turning this estimate and report around was due to your vacation schedule.

Based on the foregoing, for you to now raise the prejudicial comments in your March 17, 2006 correspondence with regard to my client's availability lacks professionalism and is at a minimum disingenuous. It is quite clear from your communication that your impartiality is questioned, especially with regard to such statements now being filed with the Court. As soon as we contact Mr. Galgana, we will be in touch with Mr. McLaughlin in order to have him come out and view the vessel. However, until Mr. Galgana, the owner of the Prim Lady, is reached we cannot commit to someone having access and availability to this vessel without the owner being present.

(Dictated But Not read)

Very truly yours,
MASON & DUFFY, P.C.


Timothy E. Duffy

TFD/rmm

cc: Kenneth M. Chiarello, Esquire

MASON & DUFFY, P.C.

FACSIMILE TRANSMITTAL SHEET

TO:

Kenneth M. Chiarello, Esq.

FROM:

Timothy F. Duffy, Esq.

COMPANY:

Clinton & Muzyka, P.C.

DATE:

3/20/2006

FAX NUMBER:

(617) 720-3489

TOTAL NO. OF PAGES INCLUDING COVER:

3

RE:

One Beacon America Insurance Co.
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U. S. District Court
C. A. No. 04-11753-JLT

☐ URGENT

☐ FOR REVIEW

☐ PLEASE COMMENT

☐ PLEASE REPLY

☐ PLEASE RECYCLE

NOTES/COMMENTS:

Please see attached.

HP OfficeJet T Series
Personal Printer/Fax/Copier/Scanner

Fax History Report for
MASON DUFFY PC
781 337 2266
Mar 20 2006 1:36pm

Last Fax

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 20	1:35pm	Sent	16177203489	1:14	3	OK

Result:

OK - black and white fax
OK color - color fax

MASON & DUFFY, P.C.

FACSIMILE TRANSMITTAL SHEET

TO:

FROM:

James T. Simonitsch

Timothy F. Duffy, Esq.

DATE:

3/20/2006

FAX NUMBER:

(207) 529-6887

TOTAL NO. OF PAGES INCLUDING COVER:

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781 337 2266
Mar 20 2006 1:34pm

Last Fax

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Mar 20	1:33pm	Sent	12075296887	1:16	3	OK

Result:

OK - black and white fax
OK color - color fax